



MAYOR AND COUNCIL AGENDA

NO. 3

DEPT.: Finance /
STAFF CONTACT: Dominic Del Pozzo

DATE PREPARED: May 18, 2005
FOR MEETING OF: June 6, 2005

SUBJECT: Fiscal Year 2005 Budget Amendment Number Two

RECOMMENDATION: Adopt the ordinance to amend ordinance #3-05(A) to appropriate funds and levy taxes for Fiscal Year 2005.

DISCUSSION:

Background

In accordance with the City Charter, a change in the appropriated amount of any fund requires approval by the Mayor and Council. The vehicle for approval is an ordinance to amend the budget. The attached budget amendment ordinance would amend the Fiscal Year 2005 budget to transfer funding to the Capital Projects Fund, to recognize grant funding, and to cover costs related to debt service.

Transfer to the Capital Projects Fund (Capital Projects Fund)

This amendment transfers \$463,000 to the Capital Projects Fund to cover the costs of the police communication system that was partially covered by federal grant funds from the COPS program. The attached memo and letter provide detailed background on this issue.

Recognition of Grant Funds (Capital Projects Fund)

The Police Department received grant funding in the amount of \$98,948, which will be added to the Police Technology CIP project. The funding will be spent on an emergency management mobile command center.


Interest Expense for BANs (Debt Service Fund)

The amendment would provide \$281,000 to cover an interest payment on the Bond Anticipation Notes (BAN) issued for Town Center related expenses. A substantial portion of this expense has been reimbursed.

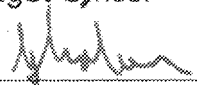
Revenue Recognition to Cover Interest Expense (Debt Service Fund)

The amendment would recognize \$214,000 in revenue that the City received after closing on Phase II of the Town Center project. This funding is a partial reimbursement for interest on the BAN.

PREPARED BY:


Dominic Del Pozzo, Budget Officer

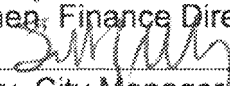
APPROVE:


Gavin Cohen, Finance Director

Date

5/26/05

APPROVE:


Scott Ullery, City Manager

Date

5/30/05

LIST OF ATTACHMENTS:

Summary of Budget Amendment

Budget Amendment Ordinance

Memo from W. Bowman Ferguson re: COPS Technology Grant

Letter from COPS Office re: COPS Technology Grant

Summary of Budget Amendment	
Debt Service Fund	
<i>Revenue Changes</i>	
Reimbursement for Interest Expense	214,000
From General Fund	67,000
	281,000
<i>Expenditure Changes</i>	
Interest Expense	281,000
<i>Net Change</i>	-
Capital Projects Fund	
<i>Revenue Changes</i>	
From General Fund	463,000
Police Grant	98,948
	561,948
<i>Expenditure Changes</i>	
Police Technology CIP project	561,948
<i>Net Change</i>	-

ORDINANCE NO. _____

ORDINANCE: To Amend Ordinance
#3-05(A) to
Appropriate Funds
and Levy Taxes for
Fiscal Year 2005.

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE,
MARYLAND** as follows:

SECTION I - ANNUAL OPERATING APPROPRIATIONS

There are hereby appropriated for the fiscal year beginning July 1, 2004, and ending June 30, 2005, out of the revenues accruing to the City for the purpose of operations, the several amounts hereinafter listed under the column designated "Amounts Appropriated":

FUNDS	AMOUNTS APPROPRIATED
General Fund	\$50,091,703
Water Facility Fund	5,104,990
Sanitary Sewer Fund	5,651,776
Refuse Fund	5,133,008
Parking Fund	1,050,654
Stormwater Management Fund	1,097,369
RedGate Golf Course Fund	1,461,393
Special Activities Fund	463,852
Community Development Block Grant Fund	781,946
Debt Service Fund	[4,333,574] <u>4,614,574</u>

The "Amounts Appropriated" by this section totaling [\$75,170,265] ~~\$75,451,265~~ shall be for the annual operating expenses of the departments and agencies of the City and shall be disbursed by the Clerk and Treasurer under the supervision of the City Manager.

SECTION II - CAPITAL PROJECTS APPROPRIATIONS

There is hereby appropriated out of the revenues accruing to the City for the purpose of capital improvements, the several amounts hereinafter listed under the column designated

"Amounts Appropriated":

FUNDS	AMOUNTS APPROPRIATED	
Water Facility Fund	\$8,187,535	
Sanitary Sewer Fund	12,893,505	
Refuse Fund	464,348	
Parking Fund	42,070,601	
Stormwater Management Fund	5,983,800	
RedGate Golf Course Fund	945,531	
Capital Projects Fund	[105,568,106]	105,667,517

The "Amounts Appropriated" by this section totaling [\$176,113,426] \$176,212,837 shall be for improvement projects and shall be disbursed by the Clerk and Treasurer under the supervision of the City Manager.

SECTION III - GENERAL LEVY

There is hereby levied against all assessable real property within the corporate limits of the City a tax at the rate of thirty-two and two-tenths (\$0.322) cents on each \$100 of assessable value of said property. There is also hereby levied, against all assessable personal property within the corporate limits of the City, a tax at the rate of eighty and one-half (\$0.805) cents on each \$100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the "Amounts Appropriated" as set forth in the foregoing Section I. The tax levies herein provided in this

section shall not apply to property in the City of Rockville to the extent that such property is not subject to taxes as provided in any valid and binding annexation agreement.

Note: [Brackets] indicate material deleted.
Underlining indicates material added.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of June 6, 2005.

Claire F. Funkhouser, City Clerk



City of Rockville

MEMORANDUM

November 9, 2004

TO: Donna Boxer, Director of Finance
Terrance Treschuk, Chief of Police

FROM: W. Bowman Ferguson, Assistant to the City Manager

SUBJECT: COPS Funding Status

This memorandum updates the status of our FY03 COPS grant, obtained through the federal appropriations process. In summary, we are still lobbying the Director of the COPS program with support from Holland and Knight and Senator Mikulski's office to obtain reimbursement for our 800 MHz expenditures in the Police Department.

Background

In 2000, the City identified the need to make a significant capital expenditure to replace and upgrade our communications equipment in order to be compatible with the County's new 800 megahertz communication system. CIP funding was first allocated in the City's FY01 budget with expenditures predicted to begin in FY02. The original cost estimate from Montgomery County was for \$580,000. By FY02, projected costs had risen to \$700,000 and by FY03, the County estimate had risen again to over \$1 million, with most of the expenditures pushed back into FY03 because the County had delays in implementing the new system.

Just as we were beginning to plan the first 800 megahertz equipment purchases, the City began efforts to pursue federal appropriations for the first time. As we considered areas in which to request money, police technology was identified as a likely source to obtain funding. A request was formulated that would completely fund our 800 megahertz conversion at a total of about \$1 million and was formally submitted February of 2002.

Soon after, we received word from the County that the switch to the 800 megahertz system was imminent and we would need to begin our installation. Our first purchases of equipment occurred in May 2002. At the time, we were of the understanding that a federal allocation for Police technology would cover our purchases regardless of their purchase date because the request was project-specific, not date-specific. Our understanding of the federal appropriations process was limited at this early stage. In the late spring, we received early word that our federal request would likely be successful, and we continued our purchases throughout 2002 and 2003 with confidence.

After official notice was received in February 2003 that our police technology request was fully funded, the FY04 CIP was prepared reflecting the federal funding of \$923,832. The approval of

the federal appropriation allowed for reprogramming of the same amount of CIP funding to other projects.

After we received notice of the federal award, our Police Department began filing the necessary paperwork to receive reimbursement from the COPS program. It was only well after the paperwork was filed that we were notified that the COPS program had concerns about the timing of our expenditures and their willingness to reimburse us. To date, the staff at the COPS program have refused to reimburse the city for any expenditures made prior to passage of the FY03 federal budget in February 2003.

Current Status

The federal grant was awarded as part of the Federal FY03 budget, which commenced on October 2002, but the budget was not passed until February 2003. The city maintains and has argued to the grant administrators that all of our expenditures should be approved for reimbursement because we were forced to spend the money to meet the Montgomery County deadline and our request was project specific, not budget-year specific. However, at the very least, we feel it is appropriate for the program to reimburse expenditures made after October 2002 when the federal FY03 budget year commenced.

Holland & Knight is in the process of working with the COPS program to get our request approved. Having been recently denied by the regional Program Director, David Winstead has scheduled meetings this week with Senator Barbara Mikulski's staff and with COPS Program Director Tom Frazier. We remain hopeful that these meetings will result in the release of the funding.

Scenarios

There are three funding scenarios that could play out, depending on the result of our appeal to the COPS Program Director.

- **Full Funding**-The City is reimbursed for the entire grant amount of \$983,832.
- **Federal FY03 Reimbursement**- The City is reimbursed for any funds spent after October 2002 (the start of the Federal FY03 budget year) in the amount of \$534,773
- **Request denied**- The City is reimbursed for expenditures made after February 2003 in the amount of \$58,229.

Regardless of the decision, the City is entitled to the total grant award of \$923,832, but will need to identify new uses for any funding that is not allowed for reimbursement of any 800 megahertz equipment expenditures. Any non-reimbursed expenditures will be reclassified in the CIP as city-funded and result in a commensurate charge to the Capital Projects fund. We expect a final decision from the COPS administrator this month. I will update you as I receive new information. Please let me know if you have any questions.



U.S. Department of Justice

Office of Community Oriented Policing Services (COPS)

Legal Division
1100 Vermont Avenue, N.W.
Washington, DC 20530
(202) 514-3750
(202) 514-3456 (fax)

April 12, 2005

Via Facsimile and U.S. Mail
David Winstead, Esq.
Holland & Knight LLP
2099 Pennsylvania Avenue, NW
Washington, D.C. 20006-6801

Early Purchase - Revised Letter of Guidance
COPS Technology Grant #: 2003CKWX0043
ORI #: MD01605

Dear Mr. Winstead:

I am writing in response to W. Bowman Ferguson's¹ letter that the COPS Office received on April 7, 2005, which clarified Mr. Ferguson's March 4, 2005 letter to the COPS Office Legal Division and statements made during our March 23, 2005 telephone conversation regarding the City of Rockville's ("City") allocation of local funding for a multi-year communications upgrade project that was partially funded under a 2003 COPS Technology Initiative grant.

As you are aware, in a letter dated March 30, 2005, the Legal Division provided the City guidance on whether the City's request to use Technology grant funding to cover the cost of communications equipment² purchased prior to the February 20, 2003 grant award start date complied with the nonsupplanting requirement of the COPS statute. In our letter we advised the City that based on the information received from you, as the agency's legal representative, Mr. Ferguson and Chief T.N. Treschuk that the City's actions complied with the nonsupplanting requirement of the COPS statute.

Specifically, we determined that although the City budgeted \$485,000.00 in local funding in FY 2002³ to cover a portion of the City's multi-year upgrade of its data and voice communications system, the agency purchased the communications equipment in specific anticipation of the Technology grant⁴ and Technology grant funding was not used to replace the \$485,000.00 in local funding that was previously

¹ Mr. Ferguson is the Assistant to the City Manager of Rockville.

² It is our understanding that the City expended \$476,328.00 on the purchase of communications equipment in November and December 2002.

³ The City's fiscal year is from July 1st through June 30th.

⁴ The City represented that in deciding to purchase the equipment pre-award it relied upon a letter dated July 26, 2002 from Senator Barbara Mikulski that mentioned the inclusion of funding for the City's communications upgrade in the 2003 Commerce-Justice-State & Judiciary appropriations bill ("2003 CJSJ Bill"). As mentioned in our March 30th letter, although the City relied upon this letter in deciding to purchase the equipment pre-award, your client did so without understanding the significance of Senator Mikulski's statement that the inclusion of the funding in the 2003 CJSJ Bill was merely the first step in the appropriation process and getting the funding approved.

David Winstead, Esq.

April 12, 2005

Page 2

allocated to the communications upgrade project. The determination that Technology grant funding was not used to replace local funding already allocated to the communications upgrade was based upon Mr. Ferguson's March 4th letter¹ and our subsequent telephone conversation on March 23rd. Mr. Ferguson represented during our telephone conversation that the City carried over to FY 2003 the remaining \$70,448.00 in local funds to cover additional costs directly associated with the communications upgrade project. Mr. Ferguson mentioned in his most recent letter that subsequent to our telephone conversation the Rockville Police Department completed an internal audit to determine whether the \$70,448.00 was indeed allocated to the communications upgrade project. Based upon the audit findings, which were outlined in Mr. Ferguson's recent letter and an attached equipment purchase printout, it is now our understanding that in FY 2003 the City only expended \$46,403.46 of the carryover funding on costs directly associated with the communications upgrade project and that \$24,044.54 was reallocated to other unrelated projects.

Based on this information, the City's request to use Technology grant funding to reimburse \$476,328.00 in pre-award communications purchases violates the nonsupplanting requirement of the COPS statute, since the City would be using Technology grant funding to replace \$24,044.54 in local funding that the City previously allocated to the communications upgrade project in FY 2002, but reallocated to other unrelated projects in FY 2003 as a result of receiving COPS grant funding. Therefore, in order to comply with the nonsupplanting requirement, the City may only use Technology grant funding to reimburse \$460,955.46² in pre-award equipment purchases.

Since the City will only be able to use \$460,955.46 in Technology grant funding toward the communications equipment purchased pre-award, the City may request a grant modification to reallocate the remaining \$24,044.54 to other allowable grant costs. If the City wishes to request a grant modification or to obtain grant modification procedures, please contact your Technology Grant Program Specialist before your grant award end date, August 19, 2005, as indicated below:

Raymond Reid
COPS Grant Program Specialist
U.S. Department of Justice
Office of Community Oriented Policing Services
Grants Administration Division
1100 Vermont Avenue, NW
Washington, DC 20530
(800) 421-6770 (phone)

As mentioned in our March 30th letter, the COPS grant programs are intended to be implemented only *after* the official grant award start date to ensure full compliance with the grant requirements. If the City has any questions in the future regarding the status of pending grant applications or "earmark" grant awards, it should contact the COPS Office before taking action that could jeopardize its future use of awarded grant funds.

¹ According to Mr. Ferguson's March 4th letter and previously submitted equipment purchase orders the City expended \$414,552.00 in local funding in FY 2002 on equipment directly associated with the communications upgrade project. Since \$485,000.00 was initially allocated to this project in FY 2002, it is our understanding that at the end of FY 2002 the City had a remaining local fund balance of \$70,448.00.

² This figure was arrived at by subtracting \$24,044.54, the amount of local funding reallocated from the communications upgrade project to unrelated projects from \$485,000.00, the amount of local funding originally allocated to the communications upgrade project in FY 2002.

David Winstead, Esq.

April 12, 2005

Page 3

We strongly advise keeping a copy of this letter in the City's Technology grant file for future reference in the event of an audit or monitoring site visit.

I hope this letter addresses all of your concerns. If you have any questions concerning this review, please contact me at (202) 314-1375. You may also visit our website at <http://www.cops.usdoj.gov> for the latest information pertaining to the COPS Office.

Sincerely,

Melissa Fieri-Farrow
Associate General Counsel

cc: Scott Ulery
City Manager
City of Rockville

W. Bowman Ferguson
Assistant to the City Manager
City of Rockville

T.N. Traschuk
Chief of Police
City of Rockville

Andre Tolver
COPS Grant Program Specialist